

ARCHIVES

Mukasey Won't Say Waterboarding Is Torture But in 1947 the U.S. Called It a War Crime, Sentenced Enemy Officer to 15 Years Hard Labor

Posted by Jon Ponder | Oct. 29, 2007, 12:30 pm

Immoral Relativism: George Bush's nomination of Michael Mukasey for U.S. attorney general — once thought to be smooth sailing — is experiencing a bit of turbulence. The problem is, Mukasey **can't bring himself to say** whether or not waterboarding is torture:

During his confirmation hearings earlier this month, Mukasey said he believes torture violates the Constitution, but he refused to be pinned down on whether he believes specific interrogation techniques, such as waterboarding, are constitutional.

"I don't know what's involved in the techniques. If waterboarding is torture, torture is not constitutional," he said.

"I don't know what's involved in the techniques. If waterboarding is torture, torture is not constitutional."

– Mukasey

But after World War II, the United States government was **quite clear** about the fact that waterboarding was torture, at least when it was done to U.S. citizens:

[In] 1947, the United States charged a Japanese officer, Yukio Asano, with war crimes for carrying out another form of waterboarding on a U.S. civilian. The subject was strapped on a stretcher that was tilted so that his feet were in the air and head near the floor, and small amounts of water were poured over his face, leaving him gasping for air until he agreed to talk.

"Asano was sentenced to 15 years of hard labor," Sen. Edward M. Kennedy (D-Mass.) told his colleagues last Thursday during the debate on military commissions legislation. "We punished people with 15 years of hard labor when waterboarding was used against Americans in World War II," he said.

Mukasey's non-answer has **raised doubts** among Democrats, and even some Republicans, on the Senate Judiciary Committee:

[The] Democrats on the committee signed a joint letter to Mukasey, making sure that he knew what's involved, and demanded an answer to the question as to whether waterboarding is torture.

Then two days later, the doubts grew louder. Two key Democrats, Senate Judiciary Committee Chairman Patrick Leahy (D-VT) and Sen. Dick Durbin (D-IL) both said publicly that their votes depended on Mukasey's answer to the waterboarding question.

Then it was Sen. John McCain (R-AZ) who saw an opening after Rudy Giuliani refused to call waterboarding torture ("It depends on who does it."). Most certainly it's torture, McCain said. When pressed, he stopped short of

saying that he would oppose Mukasey's nomination if he didn't say the same, but he added to the chorus of those who professed to be interested in what Mukasey's answer to follow-up questions will be.

Yesterday, Sen. Lindsay Graham (R-SC) said that if Mukasey "does not believe that waterboarding is illegal, then that would really put doubts in my own mind."

Rep. Arlen Specter (R-PA) has also thrown in his lot of doubts and concerns.

Of course, if the past is a guide, Mukasey will easily win nomination, and nearly all these senators who have expressed concern will vote for him.

Waterboarding has become an issue because the Bush White House signed off on it as an interrogation technique — and thus moved the United States into the company of pariah states that permit torture — after the 9/11 attacks.

H/t: DBM

Topics: Torture
[| Permalink](#) | [Trackback](#) |

COMMENTS

22 Comments on "Mukasey Won't Say Waterboarding Is Torture But in 1947 the U.S. Called It a War Crime, Sentenced Enemy Officer to 15 Years Hard Labor"

I thought Mukasey was a reasonable prospect for A.G., given who nominated him, until the judge dodged and weaved when asked about waterboarding. I simply can't believe the man doesn't know enough about the practice to be able to say whether it's torture or not. But if he really doesn't, he's obviously too poorly informed to be attorney general.

Then, it got worse. Mukasey evidently has no problem with a president ignoring statutory law if that president can come up with a national security excuse, real or perceived.

Sorry, but as Sen. Chris Dodd pointed out, that's not in the Constitution. And the fact that it's not in the Constitution and would put the president above and beyond the law, makes Mukasey completely unsuitable to be A.G.

Like Gonzales before him, Mukasey either doesn't know the law well enough, which seems unlikely, or he can't appreciate the difference between pleasing the boss and fulfilling his oath to uphold the Constitution and laws of the land.

Next. . . ?

Comment by **S.W. Anderson** | Oct. 29, 2007, 6:37 pm |

[...] Torture But in 1947 the U.S. Called It a War Crime, Sentenced Enemy Officer to 15 Years Hard Labor article from Pensito [...]